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Optician's fate hangs in balance

Allegations of misconduct

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The Hamilton Spectator

TORONTO (Jan 9, 2009)

Unrepentant serial scofflaw, or pioneering health-care reformer ahead of his time?

Those are the starkly different choices facing a disciplinary panel that must decide the professional fate of Dundas optician Bruce Bergez.

A disciplinary panel of Ontario's College of Opticians heard final submissions by both sides yesterday in the case of Bergez, the founder of the Great Glasses chain of stores operating throughout southern Ontario.

Bergez, who has been under suspension as an optician since 2006, is facing allegations by the college he committed acts of professional misconduct.

Ontario's health regulations state eyeglasses and contact lenses must be dispensed to a patient by a registered optician based on a prescription supplied either by an optometrist or a physician.

Under the Great Glasses business model, Bergez was the only optician listed for the entire chain.

The stores' customers usually arrive without a proper prescription and then receive glasses or contacts that have been prepared by staff members who aren't opticians, based on a printout from a computerized machine called the Eyelogic System.

It's a business model that has already been categorically rejected by Ontario courts on more than one occasion.

Bergez, his wife and three of their companies were found guilty of contempt in November 2006, which led to the largest fine for a civil contempt case in Canadian history.

Bergez was fined \$1 million and a further \$50,000 a day for every day since the Great Glasses outlets haven't been in compliance with legislation governing the prescribing and dispensing of eyeglasses and contacts. The outstanding fines now total more than \$37 million.

In his closing submission, college lawyer Robert Cosman pointed to the earlier court decisions, which showed beyond a reasonable doubt "that Mr. Bergez committed the acts of professional misconduct he is charged with."

Cosman reminded the five-member disciplinary panel 10 customers called as witnesses all testified they received eyeglasses without presenting a prescription. All of the customers also said they never saw or met Bergez when they received their glasses.

"Those customers, I submit, are subject to a fraud," said Cosman.

Cosman noted that, contrary to regulations, Bergez refused to turn over patient records, as required, to the college's two investigators. Bergez admitted in a letter to the college Great Glasses doesn't even keep patients' records or copies of prescriptions, he pointed out.

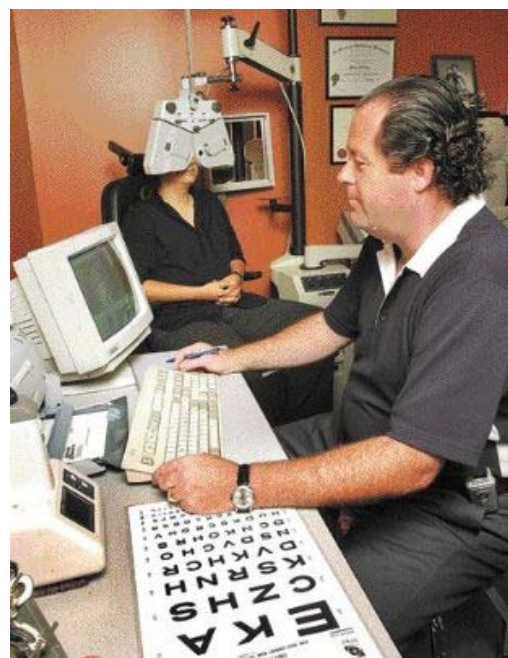
In his rambling closing submission, Bergez pointed to the testimony of the college's own registrar, Caroline MacIsaac-Power, who said opticians can dispense eyeglasses when they feel they have a valid prescription. Bergez seized on the word "feel" to state "I felt I had a valid prescription."

"I wish I had Ms MacIsaac-Power's testimony two years ago, then I wouldn't have been found guilty of contempt," said Bergez.

"I got royally raped. It's too bad, but I'll live with the consequences," he added.

Bergez also said Ontario's health regulations give him the ability to delegate his authority as an optician to others.

Panel members should accept his forward-thinking interpretation of the relevant health legislation, he argued.



Hamilton Spectator File Photo

Following a brief conclusion to the closing submissions this morning, the disciplinary panel is expected to begin its deliberations.

However, there has been no time period given for the release of a decision.

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